

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

VIMARIE SANTIAGO, et al.

Plaintiffs

v.

Civil No. 04-1066(SEC)

MUNICIPALITY OF SAN JUAN, et al.

Defendants

ORDER

MOTION	RULING
<p>Dockets ## 31 & 33</p> <p>Motion to Stay Proceedings Pending Resolution of Parallel State Court Case</p>	<p>DENIED. Defendants have filed separate motions requesting that the Court stay the proceedings in the instant case pending resolution of a parallel state court case which is allegedly “much more advanced” than this one (Dockets ## 31 & 33). To date, Plaintiffs have not filed an opposition to said motion. However, the Court notes that Defendants have not included any evidence in support of their motion requesting that the Court stay the proceedings at this juncture. The Court can only assume that Defendants are banking on the evidence presented by Co-defendant Municipality of San Juan in support of its request for dismissal, which was filed at the inception of the instant case approximately seventeen (17) months ago and which we denied (Dockets ## 4 & 28). With this scenario, and considering the applicable law, we cannot responsibly stay this case without further, more recent, evidence in support thereof. We explain.</p> <p>Abstention of federal court pending a parallel state court proceeding is only warranted in “exceptional circumstances”. <u>Río Grande Comm. Health Ctr., Inc. v. Rullán</u>, 397 F.3d 56, 71-72 (1st Cir. 2005) (listing the eight (8) factors to be considered in order to decide whether abstention of a federal court is justified in like cases)(citing <u>Colorado River Water Conservation Dist. v. United States</u>, 424 U.S. 800, 818 (1976)). Thus, the District Court’s discretion is restrained by the <u>Colorado River</u> “exceptional circumstances.” There being a heavy presumption against abstention and lacking recent evidence as to the status of the proceedings in state court, we must DENY Defendants’ request at this time. The Court is not in a position to ascertain, for example, the parties’ inconvenience of litigating their case in both forums at the same time or the adequacy of the state forum to protect the parties’ interests at this time. Furthermore, although the Court has been informed by Co-defendant Escalera that Plaintiffs’ claims against him have been dismissed in state court, the Court has not been so advised as to the status of the state court proceedings against Co-defendant Municipality of San Juan. Accordingly, Defendants’ motions to stay the proceedings, at this juncture, are DENIED WITHOUT PREJUDICE.</p>

DATE: August 19, 2005

S/ *Salvador E. Casellas*
SALVADOR E. CASELLAS
U.S. Senior District Judge